

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 3564 of 2007

23-02-2007

Between:-

Mohd. Akber Khan

Petitioner

And

State of Andhra Pradesh rep., by District Collector,  
Nizamabad and two others.

Respondents



THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 3564 of 2007

Oral order:

The singular grievance in this writ petition is as to the decision of the second respondent, the Land Acquisition Officer, passing award in an amount of Rs.2,99,934-75 ps., for acquisition of land in an extent of

Ac.02-29 gts., in old survey No. 268 corresponding new survey No.293 of Sarangapoor village, Nizamabad mandal, Nizamabad district and depositing the same in the civil court under Section 30 and 31 (2) of the Land Acquisition Act, 1894 (Act No. 1 of 1894) (for short 'the Act') by making a reference for adjudication as to the competing claims for receipt of the compensation.

In the award inquiry, the third respondent lodged a claim for compensation contending that his father – Akber Khan son of Kareem Khan was the original pattedar of old survey No. 268 corresponding to the new survey No. 293; his father died on 15-09-1961 leaving behind him, the petitioner and five sons and a wife.

On the death of Akber Khan, the land was not mutated in the name of legal heirs. However, the petitioner, son of Karimulla Khan and grandson of the original pattedar Akbar Khan, taking advantage of the similarity of his name with the original pattedar, obtained pattedar passbook and title deed. The petitioner is not entitled for compensation for the lands under the acquisition and he should be paid the entire compensation. He also enclosed with his application certain documents like pahanies etc.,

On the basis of the above claim of the third respondent and considering the claim of the petitioner too, the second respondent recorded a satisfaction that a dispute has arisen on the documents filed before him; and as the dispute is regarding entitlement and apportionment of compensation, referred the matter to the civil court, directing deposit of amount of compensation before the Civil Court.

The learned counsel for the petitioner contends that there is really no dispute which required to be referred to the civil court under Sections 30 and 31 (2) of the Act. It is contended on behalf of the petitioner that in O.S.No. 20 of 1968, the petitioner's entitlement to the property in question was conclusively determined by the court of the learned Senior Civil Judge, Nizamabad. This was brought to the notice of the Land Acquisition Officer and this fact was suppressed by the third respondent, while lodging his claim. In the circumstances, as his entitlement to the property already stood determined, in O.S.No. 20 of 1968, there was no justification for the second respondent to have referred the matter to the civil court and he should have awarded compensation to the petitioner after rejecting the claim of the third respondent.

Reliance for the challenge to the exercise of discretion by

the Land Acquisition Officer is placed on the decision of a Division Bench of the Patna High Court in *S. KUMAR v. L.A. OFFICER*<sup>1</sup> and the decision of a learned single Judge of this court in *RACHAMALLA AMRUTHAMMA AND ANOTHER v. GOVERNMENT OF A.P.*<sup>2</sup>

In *Rachamalla Amruthamma's case (2 supra)*, the award itself recorded the relevant facts relating to the earlier litigation between the parties which had decided the rights of ownership and possession to the properties acquired. In the case on hand, the award is totally silent. There is no reference to the decision in O.S.No. 20 of 1968 on which reliance is placed by the petitioner to claim exclusive entitlement to the property acquired and therefore to the compensation for its acquisition. No material is put forth before this court to justify a conclusion that the fact of the earlier judgment was brought to the notice of the Land Acquisition Officer, who nevertheless ignored reference to the earlier judgment inter parties.

The provisions of the Act enable the Land Acquisition Officer to refer to the civil court any competing claims or dispute as to the title to the lands in question. In the circumstances, the discretion exercised by the second respondent cannot be characterized as perverse or even illegal. There are no merits in this writ petition.

The writ petition is accordingly dismissed at the stage of admission after hearing the learned Government Pleader for Land Acquisition.

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GODA RAGHURAM, J

Dated:23-02-2007

Pvks/\*

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[1](#) . AIR 1961 Patna 150 (V. 48 C 40).  
[2](#) 2005 (3) ALD 75.